



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2012-0435; FRL – 9775-2]

Approval and Promulgation of Implementation Plans; Texas; Beaumont/Port Arthur Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Beaumont/Port Arthur (BPA) 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) which replaces the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. The BPA 1997 8-hour ozone maintenance area consists of Hardin, Jefferson, and Orange Counties in Texas.

DATES: This final rule is effective on [Insert date 30 days from date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR- 2012-0435. All documents in the docket are listed at www.regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Riley, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-8542; fax number 214-665-6762; e-mail address *riley.jeffrey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” means EPA.

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I. What is the Background for This Action?

The background for today's action is discussed in detail in our September 19, 2012 proposal (77 FR 58058). In that notice, we proposed to approve a revision to the BPA 1997 8-hour ozone maintenance air quality SIP by replacing the previously approved motor vehicle emissions budgets, developed with EPA's MOBILE 6.2 model, with budgets developed using EPA's more current Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. At the time of our proposal, Texas had provided for public review and comment of the SIP revision at the state level. Subsequently, the State adopted the revision and submitted it to us on December 10, 2012.

An air quality maintenance plan is required to show that an area will continue to maintain attainment of the applicable standard taking into account projections of future emissions. Our approval means that EPA is finding that Beaumont's ozone air quality maintenance plan still demonstrates that the area will maintain attainment of the 1997 ozone national ambient air quality standard through the year 2021 while taking into account the revised emissions from the MOVES model. The motor vehicle emissions budgets are the amount of emissions from on-road motor vehicles that are consistent with the maintenance plan. Once EPA approves the submitted

budgets, they must be used by local, state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the Clean Air Act (CAA) and 40 CFR §93.102.

II. What Public Comments Were Received?

The State public comment period for this SIP revision was from June 29, 2012, until August 3, 2012. A public hearing was offered but was not requested. No public comments were received by Texas during the comment period.

The Federal Register proposing approval of this SIP revision was published on September 19, 2012, and the public comment period closed on October 19, 2012. EPA received three comment letters. However, one comment letter is not related to EPA's proposal and is outside the scope of this action. Therefore, EPA is responding only to the two comments that are relevant to this action. Those comments expressed support of EPA's approval of this SIP revision and were submitted by the Texas Commission on Environmental Quality, Austin; Executive Director, and the 8-Hour Ozone SIP Coalition, Austin; Project Coordinator. EPA appreciates the support for this action. The comment letters are available for review in the docket for this rulemaking.

III. What Action is EPA Taking?

EPA is approving as a SIP revision new MOVES2010a-based budgets for the Beaumont/Port Arthur 1997 ozone maintenance area because the submitted budgets will continue to keep emissions below the attainment level and maintain air quality. On the effective date of this rulemaking, the submitted MOVES2010a budgets will replace the existing,

MOBILE6.2-based budgets in the state's 1997 8-hour ozone maintenance plan and will be used in future transportation conformity analyses for the area. The previously approved MOBILE6.2 budgets will no longer be applicable for transportation conformity purposes.

Beamont/Port Arthur MOVES2010a-Based 8-hr Ozone MVEBs (tpd)

Budget Year	NO_x MVEB	VOC MVEB
2021	9.7	3.9

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the

U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52:

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: January 16, 2013.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. Section 52.2270(e) is amended by adding an entry for *On-Road Mobile Source Emissions Inventory and Motor Vehicle Emissions Budget Update* at the end of the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” as follows:

§ 52.2270 Identification of plan.

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EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Comments
* * * * *				
On-Road Mobile Source Emissions Inventory and Motor Vehicle Emissions Budget Update	Beaumont/Port Arthur, TX	12/10/2012	[Insert date of FR publication] [Insert citation of publication in Federal Register]	MOVES update to motor vehicle emissions budgets

[FR Doc. 2013-02237 Filed 02/01/2013 at 8:45 am; Publication Date: 02/04/2013]